

CCRB INVESTIGATIVE RECOMMENDATION

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|---------------------------------------------------|------------------------------------------------------------------------------------|---------------------------|--------------------------------------------------------|------------------------------------|---------------------------------|
| Investigator: Max Baird | Team: Squad #8 | CCRB Case #: 201606881 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Sunday, 08/07/2016 12:30 PM | Location of Incident: West 32nd Street entrance to St. Francis of Assisi Church | Precinct: 14 | 18 Mo. SOL 2/7/2018 | EO SOL 2/7/2018 | |
| Date/Time CV Reported Wed, 08/10/2016 12:08 PM | CV Reported At: CCRB | How CV Reported: Mail | Date/Time Received at CCRB Wed, 08/10/2016 12:08 PM | | |
| Complainant/Victim | Type | Home Address | | | |
| | | | | | |
| Witness(es) | Home Address | | | | |
| | | | | | |
| Subject Officer(s) | Shield | TaxID | Command | | |
| 1. POF Debra Davis | 05720 | 895350 | MTS PCT | | |
| Witness Officer(s) | Shield No | Tax No | Cmd Name | | |
| 1. POM Paul Reres | 19924 | 923025 | MTS PCT | | |
| Officer(s) | Allegation | | | Investigator Recommendation | |
| A.POF Debra Davis | Abuse: Police Officer Debra Davis threatened to arrest § 87(2)(b) | | | | |

Case Summary

§ 87(2)(b) is § 87(2)(b). On Sunday, August 7th, 2016, § 87(2)(b) was protesting on behalf of § 87(2)(b) outside of St. Francis of Assisi Church, located on 135 West 31st Street in Manhattan. He began his protest at about 8:00 AM. Slightly before 11:45 AM, § 87(2)(b) working at the Church, § 87(2)(b) began to receive complaints about § 87(2)(b). § 87(2)(b) went outside, saw § 87(2)(b) outside the main entrance to the church on West 31st Street, and asked § 87(2)(b) to move. They argued briefly, and § 87(2)(b) called 911.

Two officers, Police Officer Debra Davis and Police Officer Paul Reres, both of the 14th Precinct in Manhattan, responded shortly afterwards. § 87(2)(b) was no longer outside the main entrance to the church, so § 87(2)(b) and the officers went to the back entrance of the church on West 32nd Street. There, they found § 87(2)(b) standing either within the church's courtyard or just outside the divide between the street and the courtyard. Both officers began to speak with him, and a verbal confrontation ensued. Eventually, § 87(2)(b) moved back towards the street. At some point, PO Davis either told § 87(2)(b) that if he returned to church property, if he returned to where he had been, or if he resumed blocking people's paths, then he could be arrested (**Allegation A**). § 87(2)(b) remained some distance from the church's entrance, and the officers left shortly afterwards. There is no video footage of this incident.

Mediation, Civil and Criminal Histories

- Mediation was presented to § 87(2)(b) on August 12th, 2016. § 87(2)(b) rejected mediation on August 15th, 2016.
- As of October 21st, 2016, no notice of claim has been filed regarding this incident (Board Review 05 – FOIL Request).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- PO Davis has had two other CCRB complaints. A complaint with one allegation of a threat of a summons was administratively closed in 1996, and a complaint with one allegation of a discourtesy was conciliated in 1998. No complaints have been filed against PO Davis in 18 years, § 87(2)(g) (BR 07 – PO Davis' CCRB History).
- This is § 87(2)(b)'s first complaint with the CCRB (BR 08 – § 87(2)(b)'s CCRB History).

Findings and Recommendations

Allegation A: Abuse of Authority - Police Officer Debra Davis threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) § 87(2)(b) told § 87(2)(b) to leave before PO Davis and PO Reres arrived. It is also undisputed that a verbal confrontation began between § 87(2)(b) PO Davis, and PO Reres. All parties are also in agreement that PO Davis discussed the possibility of arrest with § 87(2)(b) § 87(2)(g).

§ 87(2)(g)

§ 87(2)(b)'s protest outside St. Francis of Assisi Church began the evening of August 6th, 2016 and continued the morning of August 7th, 2016. His protest was specifically in regards to a Franciscan priest who had sexually abused a woman when she was a child in Kingston, Jamaica.

§ 87(2)(b) protested alone. He wore a sign around his neck that read, "Friars: Help sex victims," and handed out leaflets to people coming in and out of the church. § 87(2)(b) pleasantly greeted people and offered them leaflets as they passed by. He did not chant or shout, and did not follow anyone or persistently offer anyone a flyer if they did not accept one. § 87(2)(b)

§ 87(2)(b) described many of his interactions with parishioners as pleasant, although he also described receiving a couple of complaints from parishioners.

§ 87(2)(b) began his protest at about 8:00 AM on August 7th, 2016, and divided his time between the main entrance to the church on West 31st Street and the back entrance on West 32nd Street. At about 11:00 or 11:30 AM, § 87(2)(b) was standing at the bottom of the stairs leading to the main entrance. He stood on the sidewalk, directly past a handrail in the middle of the staircase. § 87(2)(b) for the church, § 87(2)(b) came out of the church and approached § 87(2)(b). § 87(2)(b) told § 87(2)(b) that he "could not do that there." § 87(2)(b) responded that he was just handing out leaflets. § 87(2)(b) told § 87(2)(b) that he would call the police. § 87(2)(b) responded that if § 87(2)(b) did not leave him to do his work, then he would call the police himself.



Figure 1: St. Francis of Assisi Church, 31st Street Entrance

§ 87(2)(b) moved to 32nd Street, near the back entrance of the church. There is a courtyard outside the church with an entrance that leads out to 32nd Street. § 87(2)(b) stood on 32nd Street, a foot away from this entrance, and continued his protest. In § 87(2)(b)'s original complaint, in his interview statement, and in a letter he wrote to Inspector Green of the 14th Precinct, § 87(2)(b) emphasized that he never entered the church's property (BR 09 – § 87(2)(b)'s Original Complaint (front), BR 10 – § 87(2)(b)'s Original Complaint (back), BR 11 – § 87(2)(b)'s Letter to Inspector Green, BR 01 – § 87(2)(b)'s CCRB Statement).



Figure 2: St. Francis of Assisi Church, 32nd Street Entrance

As § 87(2)(b) was protesting outside this courtyard, PO Davis and PO Reres approached § 87(2)(b). PO Davis told § 87(2)(b) that he had to move and could not be there. § 87(2)(b) asked her to explain why he could not be there, and PO Davis responded that she was not there to discuss anything. § 87(2)(b) told the officers that he was not on church property, that he was not breaking any laws, and that he had a constitutional right to be there.

§ 87(2)(b) moved backwards away from the church and the officers moved forwards. Both § 87(2)(b) and PO Davis' voices got louder. PO Davis stood about two or three feet from § 87(2)(b). As § 87(2)(b) spoke, he began to gesticulate in a conversational way. PO Davis told him, "Don't put your fingers in my face." PO Reres pulled § 87(2)(b)'s wrist downwards. PO Reres asked § 87(2)(b) to do him a favor and stand back from where he had been, further into the street. PO Davis then told § 87(2)(b) "If you go back over there again..." and jiggled her handcuffs, which were on her left side. § 87(2)(b) understood this to mean that if he returned to where he had been protesting, he would be arrested. The officers left soon afterwards, and § 87(2)(b) did not resume protesting (BR 01 – § 87(2)(b)'s CCRB Statement).

§ 87(2)(b) § 87(2)(b), stated that slightly before 11:45 AM he began to receive complaints about § 87(2)(b) protesting outside the church. These complaints were specifically in regards to § 87(2)(b) blocking the entrance to the church. § 87(2)(b) exited the 31st

Street entrance of the church and saw § 87(2)(b) standing at the bottom of the stairs, on the sidewalk, directly behind a handrail in the middle of the staircase. § 87(2)(b) told § 87(2)(b) that he could not be there and could not block church property. § 87(2)(b) replied that he was not on church property and that he would not move. § 87(2)(b) then told § 87(2)(b) “Go back to where you came from.” Although § 87(2)(b) did not specifically make reference to § 87(2)(b)’s race, § 87(2)(b) believed that this was a derogatory statement in regards to § 87(2)(b)’s race. § 87(2)(b) moved away from the front of the church steps, closer to the curb of the street.

When § 87(2)(b) met with PO Davis and PO Reres, § 87(2)(b) was no longer standing by the 31st Street entrance. § 87(2)(b) walked with the officers through an alley by the side of the church that leads into the church’s courtyard. When they entered the courtyard, § 87(2)(b) saw § 87(2)(b) standing by the entrance to the courtyard. There is a black line where the gate to the courtyard closes, and § 87(2)(b) was standing on the 32nd Street side of this line. § 87(2)(b) stated that where § 87(2)(b) was standing was still the property of St. Francis of Assisi Church, but could not explain why he thought so.

§ 87(2)(b) saw § 87(2)(b) handing out flyers and talking to people. He could not hear § 87(2)(b) but believed he was talking to people because he saw his mouth moving. § 87(2)(b) was not yelling at this point.

The officers approached § 87(2)(b) and began speaking to him. § 87(2)(b) heard PO Davis say, “If you come back and block the property, you will be arrested.” She said this in a normal tone of voice. § 87(2)(b) began to yell, and § 87(2)(b) left the courtyard (BR 02 – § 87(2)(b)’s CCRB Statement).

PO Reres stated that when he and PO Davis arrived at the church, § 87(2)(b) explained to them that an individual was protesting on church property and was blocking the entrance. They went to the courtyard on the 32nd Street side of the church. There, PO Reres saw § 87(2)(b) standing within the courtyard. There is a large set of mosaics on the floor closer to the church and a smaller, diamond shaped mosaic closer to West 32nd Street. § 87(2)(b) was standing in between these two sets of mosaics. PO Reres further stated that § 87(2)(b)’s hands were extended outwards holding pamphlets. Many people were entering and exiting the church at this time, and because § 87(2)(b) was in the middle of the courtyard, he was obstructing those people.

PO Reres told § 87(2)(b) that he could not protest on church property or on the street where he would block pedestrians. PO Reres asked § 87(2)(b) to move to the sidewalk, and pointed towards where § 87(2)(b) could stand, towards the curb of the sidewalk. PO Reres stated that § 87(2)(b) was instantly belligerent. § 87(2)(b) responded that he could stay where he was, and may have said something about his constitutional rights.

After about ten minutes of discussion, § 87(2)(b) left church property. At some point during this conversation, § 87(2)(b) moved from where he had been standing further back towards the black line that separates the courtyard from 32nd Street, but still on the church’s side of this black line.

PO Reres largely could not recall what PO Davis said to § 87(2)(b). At one point while they were still within the courtyard, PO Davis told § 87(2)(b) “If you remain in the courtyard, you could be subject to arrest.” Although PO Davis did not discuss why § 87(2)(b) could be arrested, PO Reres believed that § 87(2)(b) could have been arrested for disorderly conduct and trespassing.

At some point as § 87(2)(b) was moving out of the courtyard into the street, he began gesticulating and pointing at PO Davis. His hands came so close to PO Davis that she had to take a step backwards. § 87(2)(b) ultimately did move out of the courtyard onto the street near the curb (BR 03 – PO Reres’ CCRB Statement).

PO Davis stated that when she and PO Reres arrived at the church, § 87(2)(b) told them that there was a man acting disruptively on church property who refused to leave. PO Davis entered the courtyard and saw § 87(2)(b) standing between the diamond mosaic on the floor and the black line that separates the courtyard from 32nd Street. The courtyard was full of people coming in and out of the church. § 87(2)(b) was blocking people’s paths by standing in the middle of the courtyard. PO Davis saw people move around § 87(2)(b) in order to enter or exit. She did not recall if the § 87(2)(b)’s arms were extended or if he was interacting with anyone. § 87(2)(b) was loudly “making statements” as PO Davis approached, but due to the noise in the courtyard and from her radio she could not make out what he was saying.

PO Davis explained to § 87(2)(b) that he had to move because he was trespassing, blocking the way, and disturbing people. § 87(2)(b) was immediately hostile and insisted that he had a constitutional right to be there. One of the officers explained that § 87(2)(b) could stand either to the left or to the right of the entrance on the street. PO Davis clarified that even if he stood on the street, he could not block pedestrian traffic there either.

After about five minutes of discussion within the courtyard, § 87(2)(b) moved onto the street, about a foot and a half away from the edge of church property. At a certain point § 87(2)(b) became more agitated and stepped towards PO Davis and began pointing his finger near PO Davis’ face. PO Davis told § 87(2)(b) to put his hands down, and § 87(2)(b) complied, but resumed agitatedly pointing close to PO Davis’ face soon afterwards. PO Reres stepped between the two of them, and § 87(2)(b) stepped back.

The officers spent another five minutes with § 87(2)(b) outside the church. § 87(2)(b) eventually told them that he was going to go back to where he had been standing before. PO Davis said to him, “Sir, you cannot stand there. It is illegal to stand there. If you go back and security calls us again, you can be subject to arrest.” PO Davis was unsure if she pointed towards or touched her handcuffs as she said this. § 87(2)(b) remained by a light post on West 32nd Street, near the curb, and the officers left shortly afterwards (BR 04 – PO Davis’ CCRB Statement).

Patrol Guide procedure 208-01 states that for an officer to make an arrest, that officer must have reasonable cause to believe that a person has committed a crime (BR 12 – Patrol Guide procedure 208-01). An officer only commits misconduct when threatening someone with arrest if the officer

does not have reasonable cause to arrest that person. When an officer has reasonable cause to arrest someone, an officer may discuss the possibility of that arrest to accomplish a law enforcement objective. A person is guilty of disorderly conduct when, “With intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: He obstructs vehicular or pedestrian traffic; or he congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse.” (BR 13 – Disorderly Conduct Statute)

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad:

| | | | |
|---------------|-----------------|-------|-------|
| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |
| Squad Leader: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |
| Reviewer: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |